

I. AMENDMENTS

In the specification:

Page 34, line 2, change "Oakridge" to --OAKRIDGE test tube--, line 6, change "Kimwipe" to --paper (e.g., a KIMWIPE)--, line 12, and change "Speedvac" to --SPEEDVAC-type--.

Page 36, line 1, change "lysol" to --LYSOL-type disinfectant--.

Page 37, line 4, change "Vacutainer" to --VACUTAINER--.

In the claims:

Cancel claims 13 through 16 and 18, without prejudice.

Please amend claims 1, 5, 8 and 12 under the provisions of 37 C.F.R. § 1.121(b) by deleting the bracketed material and inserting the underlined material as follows:

D  
C1  
1. (amended) An ~~isolated~~ nucleic acid having a nucleotide sequence [comprising at least one of the following sequences: SEQ ID 1, 3, 5, 7, 9, 11, 13, 15, 17 or 19] consisting essentially of the sequence of SEQ ID NO 15 and further characterized as consisting of guanine at nucleotide 821<sup>141</sup> and cytosine at position 1933.

D  
C2  
5. (amended) An isolated nucleic acid having a nucleotide sequence [comprising at least one of the following sequences: SEQ ID 21, 23, 25, 27, 29, 31, 33, 35, 37 or 39]

C2 consisting essentially of the sequence of SEQ ID NO 29 and further characterized as consisting of guanine at nucleotide 821.

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C3 8. (amended) A nucleic acid comprising a first polynucleotide coding for [a surface protein] the surface proteins HA and NA of a selected wild type influenza virus and a second polynucleotide operatively-linked thereto, wherein the second polynucleotide has a nucleotide sequence [comprising at least one of the following sequences: SEQ ID 1, 3, 5, 7, 9, 11, 13, 15, 17 or 19] consisting essentially of the sequence of SEQ ID NO 15 and further characterized as consisting of guanine at nucleotide 821 and cytosine at position 1933.

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C4 12. (amended) A vaccine comprising a reassortant virus, the virus further comprising a first polynucleotide coding for [a surface protein] the surface proteins HA and NA of a selected wild type influenza virus and a second polynucleotide operatively-linked thereto, wherein the second polynucleotide has a nucleotide sequence [comprising at least one of the following sequences: SEQ ID 1, 3, 5, 7, 9, 11, 13, 15, 17 or 19] consisting essentially of the sequence of SEQ ID 15 and further characterized as consisting of guanine at nucleotide 821 and cytosine at position 1933.

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Add new claims 19 to 21 as follows:

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19. (new) A method of preventing influenza in a patient comprising introducing into the patient a prophylactically effective amount of the vaccine of ~~claim 12~~ *or Claim 23*
20. (new) A method of treating influenza in a patient comprising introducing into the patient a therapeutically effective amount of the vaccine of ~~claim 12~~ *or Claim 23*
21. (new) An isolated nucleic acid sequence comprising at least one of the following sequences: SEQ ID 1, 3, 5, 7, 9, 11, 13, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, and 39 and an isolated nucleic acid sequence consisting essentially of SEQ ID 15 and the isolated nucleic acid sequence of SEQ ID 15 further characterized as consisting of guanine at nucleotide 821 and cytosine at position 1933.
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## II. REMARKS

Claims 1 to 18 are pending in this application. Claims 2, 3, 6, and 9 to 11 have been withdrawn from examination as the result of a requirement for restriction. Claims 1, 4, 5, 7, 8, and 12 to 18 were to be examined only as far as they read on the elected species nucleic acid molecules comprising PB2 (Seq. ID. Nos. 15 and 29). For this reason, claims 1, 5, 8 and 12 have been amended to remove any reference to the non-elected species. Claims 12, 13 to 16 and 18 have been canceled without prejudice to Applicants' right to pursue prosecution of these claims in a later filed